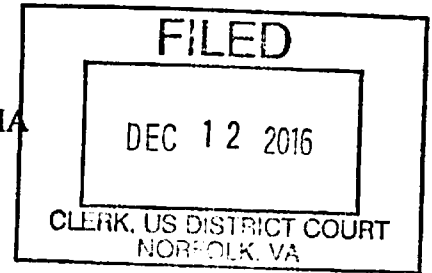


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



OVELL T. BARBER, #1172388,

Petitioner,

v.

ACTION NO. 2:16cv17

HAROLD CLARKE,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. Petitioner alleges his constitutional rights were violated when the Virginia Department of Corrections incorrectly computed his total sentence resulting from convictions in the Circuit Court for the City of Norfolk.


The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's report and recommendation recommends that respondent's motion to dismiss, ECF No. 9, be granted, and the petition for a writ of habeas corpus, ECF No. 1, be denied and dismissed with prejudice as a successive petition that is also barred by the statute of limitations. The Court has received no objections to the report and recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the report and recommendation filed October 17, 2016, and it is therefore **ORDERED** that respondent's motion to dismiss, ECF No. 9, be **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE** as a successive petition that is also barred by the statute of limitations. It is further **ORDERED** that Judgment be entered in favor of respondent.

Petitioner may appeal from the Judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003).

The Clerk shall mail a copy of this Final Order to petitioner and to counsel of record for respondent.

  
\_\_\_\_\_  
Arenda L. Wright Allen  
United States District Judge

\_\_\_\_\_  
Arenda L. Wright Allen  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
December 12<sup>th</sup>, 2016